



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2022-0134]

RIN 1625-AA00

Safety Zone; Falls Bridge Project, Blue Hill, ME

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters within a 50-yard radius from the center of the Falls Bridge in Blue Hill, ME. This action is necessary to protect personnel, vessels, and marine environment from potential hazards created by the demolition, subsequent removal, and replacement of the Falls Bridge. This regulation prohibits entry of vessels or persons into the safety zone unless authorized by the Captain of the Port Northern New England or a designated representative.

DATES: This rule is effective from July 1, 2022, through June 30, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0134 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Marine Science Technician Zachary Wetzel, Waterways Management Division, Sector Northern New England, U.S. Coast Guard; telephone 207-347-5003, e-mail Zachary.R.Wetzel@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Northern New England
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On January 6, 2022, the Maine Department of Transportation notified Sector Northern New England of an upcoming construction project on the Falls Bridge in Blue Hill, ME. In response, on April 22, 2022, the Coast Guard published a notice of purposed rulemaking (NPRM) titled “Safety Zone; Falls Bridge Project, Blue Hill, ME” (87 FR 24088). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this construction project. During the comment period that ended May 23, 2022, we received one comment.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. The comment period for the NPRM associated with the Falls Bridge in Blue Hill, ME, Bridge replacement project ended on May 23, 2022. The construction project is scheduled to begin on July 1, 2022. Thus, there is now insufficient time for a 30 day effective period before the need to enforce the safety zone on July 1, 2022. The Maine Department of Transportation has awarded the job to a contractor and work is ready to begin. Delaying the enforcement of this safety zone to allow a 30 day effective period will be impractical and contrary to the public interest because it would inhibit the Coast Guard’s ability to fulfill its mission to keep the ports and waterways safe.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034

(previously 33 U.S.C. 1231). The Captain of the Port Northern New England (COTP) has determined that potential hazards associated with the bridge construction from July 1, 2022, through June 30, 2024, will be a safety concern for anyone within a 50-yard radius of the bridge. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone during bridge construction.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on our NPRM published April 22, 2022. The comment was in favor of the rule. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from July 1, 2022, through June 30, 2024. The safety zone will cover all navigable waters within 50 yards of the Falls Bridge located in Blue Hill, Maine. The duration of the zone is intended to ensure the safety of vessels and these navigable waters during bridge replacement. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size and location of the safety

zone. The safety zone would only impact a 50-yard radius from the center of the Falls Bridge in Blue Hill, ME. Local waterway use is normally recreational and public outreach performed by Maine Department of Transportation has not identified any commercial vessel use. Proper public notice of enforcement will be given through appropriate means, which may include, but are not limited to, publication in the Local Notice to Mariners and Broadcast Notice to Mariners via VHF-FM marine channel 16.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small

Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a safety zone that would be enforced 24 hours a day from July 1, 2022, through June 30, 2024, that would prohibit entry within a 50-yard radius from the center of the Falls Bridge in Blue Hill, ME. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS

AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5;
Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

2. Add § 165.T01-0134 to read as follows:

§ 165.T01-0134 Safety Zone; Falls Bridge Project, Blue Hill, ME.

(a) *Locations.* The following area is a safety zone: All navigable waters, from surface to bottom, within a 50-yard radius from the center of the Falls Bridge in Blue Hill, ME.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Northern New England (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF-FM marine channel 16 or by contacting the Coast Guard Sector Northern New England Command Center at (207) 741-5465. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section is effective from July 1, 2022, through June 30, 2024, and subject to enforcement 24 hours a day. The Coast Guard will use Broadcast Notice to Mariners and Local Notice to Mariners to notify the public of this safety zone.

Dated: June 6, 2022.

A. E. Florentino,

Captain, U.S. Coast Guard,

Captain of the Port Northern New England.

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